

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-7 and 9-15 are presently active in this case. Claims 1 and 3 have been amended, support for which can be found at least at page 17, lines 17-22, of the specification. Claim 8 has been cancelled without prejudice or disclaimer. New Claims 9-15 are added to present the subject matter of Claims 1-7 in a format which does not invoke 35 U.S.C. § 112, sixth paragraph. No new matter is added.

In the outstanding Office Action, Claims 1-3 and 6-8 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kabeya (U.S. Patent No. 5,508,820, hereinafter “Kabeya”). Claim 4 was rejected under 35 U.S.C. § 103(a) as unpatentable over Kabeya in view of Fukunaga et al. (U.S. Patent No. 6,717,694, hereinafter “Fukunaga”). Claim 5 was rejected under 35 U.S.C. § 103(a) as unpatentable over Kabeya in view of Ramsay et al. (U.S. Patent No. 5,502,576, hereinafter “Ramsay”).

With regard to the rejection of Claim 1 under 35 U.S.C. § 102(b), Kabeya describes a recording speed of an image apparatus being based on the amount of data actually stored in memory.<sup>1</sup> For example, in Fig. 1, an unoccupied memory area amount in unit B is detected by unit F and an unoccupied memory area amount in unit D is detected by unit H. Units G and I then appropriately change the recording speed of recording unit E. More precisely, Kabeya further teaches predetermined threshold values for the amount of memory area occupied by the image data in the image memory which are used to adjust the recording speed.<sup>2</sup> This is clearly illustrated in Fig. 5 of Kabeya, wherein RM, the amount of memory unoccupied by the image data, and rM, the amount of memory unoccupied by the record data,

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<sup>1</sup> See Kabeya at column 2, lines 49-65.

<sup>2</sup> See Kabeya at column 9, lines 39-42, column 9, lines 58-67, and column 10, lines 25-31. See also Table 1 and Fig. 5 in Kabeya.

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are compared with predetermined parameters Ma, Na, Mb, Nb, Mc, Nc, Md, and Nd to set one of five possible speeds (SP1, SP2, SP3, SP4, and SP5).

Amended Claim 1 recites, inter alia, a digital image reading apparatus wherein

"the parameters include at least one of a number of pixels in a main (horizontal) scanning area, resolution (dpi) in a vertical scanning area, image composition (binary or multivalue), an image data transfer rate, a document size, and a number of document sheets."

In an exemplary embodiment of the invention, the reading rate is determined based on an amount of image data computed using parameters such as those recited above.<sup>3</sup> Kabeya does not disclose or suggest "a number of pixels in a main (horizontal) scanning area, resolution (dpi) in a vertical scanning area, image composition (binary or multivalue), image transfer rate, a document size, or a number of document sheets." Furthermore, Kabeya does not disclose or suggest "computing a total amount of the image data" from such parameters.

Accordingly, it is respectfully requested that the rejection of independent Claim 1 (and dependent Claims 2, 3, 6, and 7) be withdrawn.

With regard to the rejection of Claim 4 under 35 U.S.C. § 103(a), the outstanding Office Action does not allege that Fukunaga and Ramsay et al. disclose the aforementioned element in independent Claim 1 not taught by Kabeya. Accordingly, the combined references fail to disclose the same positively recited limitation not taught by Kabeya alone. It is therefore requested that the rejection of Claim 4 be withdrawn.

Similarly, with regard to the rejection of Claim 5 under 35 U.S.C. § 103(a), the outstanding Office Action does not allege that Fukunaga and Ramsay et al. disclose the aforementioned element in independent Claim 1 not taught by Kabeya. Accordingly, the combined references fail to disclose the same positively recited limitation not taught by Kabeya alone. It is therefore requested that the rejection of Claim 5 be withdrawn.

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<sup>3</sup> See page 7, lines 10-17.

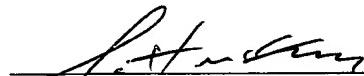
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The rejection of Claim 8 under 35 U.S.C. § 103(a) will be treated as if applied to new Claim 9. Claim 9 recites substantially similar limitations to independent Claim 1, albeit in a form which does not invoke 35 U.S.C. § 112, sixth paragraph. Accordingly, for the reasons discussed above, it is respectfully requested that new Claim 9 and any claim depending therefrom is patentably distinguished over the cited references.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 1-7 and 9-15 is earnestly solicited.

Respectfully submitted,

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